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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/516,331	03/01/2000	Satoshi Yoshizawa	16869C-54US	3731
7590	01/30/2004			
George B F Yee Townsend and Townsend and Crew LLP Two Embarcadero Center 8TH Floor San Francisco, CA 94111-3834			EXAMINER PIZARRO, RICARDO M	
			ART UNIT 2661	PAPER-NUMBER
DATE MAILED: 01/30/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)
	09/516,331	YOSHIZAWA ET AL.
	Examiner	Art Unit
	Ricardo M. Pizarro	2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 01 March 2000.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-57 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 41 and 43-50 is/are allowed.
- 6) Claim(s) 1-40, 51-57 is/are rejected.
- 7) Claim(s) 42 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Drawings

The informal drawings filed in this application are acceptable for examination purposes. When the application is allowed, applicant will be required to submit new formal drawings.

Claim Objections

1. Claims 1-40, 42 are objected to because of the following informalities and it is suggested to applicant:

In claim 1 line 10 insert “at least one” after –said-.

In claim 10 line 3 replace “devices” with –device-.

In claim 21 lines 3 and 4 insert “said” before –data-, in lines 6, 9 and 11 insert “at least one” after –said-.

In claim 30 line 2 insert “at least one” after –said-.

In claim 31 line 8 replace “a: with –said-, line 9 insert “at least one” after –said-.

In claim 32,33 and 34 line 1 replace “a” with –said-.

In claim 38 insert “said” before –at least one-.

In claim 39 line 3 insert “said” before –at least-.

In claim 42 line 3 replace “a” with –said-.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 55 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 55 line 1 “x5” is unclear and the dependency of this claim is not known.

4. In claim 40 line 2 the limitation “said step of setting” lacks antecedent basis.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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6. Claims 1-4, 8-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Gai.

US patent No. 6,651,101 (Gai et al) discloses a method for identifying data traffic flows applying quality for service to the flows, comprising a data delivery system having a data server (222 in Fig. 2) in data communication with plural devices (i.e. 212 and 214 in Fig. 2), a method of changing current network device attribute of a target device comprising transmitting first information (start up message 410 , col 7 lines 65-67, col 8 lines 1-9) from said data server to said target network device, said first information comprising at least one network device attribute(application identifier attribute) , storing said network device attribute in said target device (Program 224 in Server 222 causes component 226 to load information in end station 212, col 8 lines 53-58), transmitting second information from said data server to said target device (flow declaration component may return the set up message 414) and in response to receiving said second information changing said current attribute in accordance with said new device attribute (component 226 may rewrite attributes, col 17 lines 66-67, col 18 lines 1-21, col 21 lines 36-44, col 22 lines 6-10) , as in claim 1; wherein said attribute is a QOS setting (col 8 lines 10-12), as in claim 2; said first information includes an address of said target device (said attribute is a globally unique identifier i.e. address, col 8 line 5) as in claim 3; transmitting said second information in form of a data packet destined for a client (col 16 lines 28-30), as in claim 4; incorporating said first information in a data packet destined to a client (assuming packets correspond to flow from program 24 to end station 212 in Fig. 2, col 16 lines 28-30) , as in claim 8; incorporating said first information in a data packet that is not destined to a client (col 16 lines 28-30), as in claim 9.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 10-12, 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gai. US patent No. 6,651,101 (Gai et al) discloses a method for identifying data traffic flows applying quality for service to the flows, wherein in a data delivery system having a data server (222 in Fig. 2) in communication with plural network devices (i.e. 212 and 214 in Fig. 2), a method of changing QOS (one of the argument is QOS, col 8 lines 10-12) of a target device comprising transmitting first information from said data server to said target network device (start up message 410 , col 7 lines 65-67, col 8 lines 1-9) and comprising at least an attribute , storing parameter in said target device (Program 24 in Server 222 causes component 226 to load information in end station 212, col 8 lines 53-58), transmitting second information from said data server to said target device (flow declaration component may return the set up message 414) and in response changing said attribute in accordance with said stored parameter, as in claim 10; said first information includes an address of said target device (said attribute is a globally unique identifier i.e. address, col 8 line 5), as in claim 11; incorporating said second information in a data packet destined to a client (col 16 lines 28-30), as in claim 12; incorporating said first information in a data packet destined for a client (assuming packets

correspond to flow from program 24 to end station 212 in Fig. 2, col 16 lines 28-30), as in claim 16; incorporating said first information in a data packet that is not destined for a client (col 16 lines 28-30), as in claim 17; accumulating a list of plural entries in said target device, each entry including an attribute parameter, as in claim 18; said first information is a list of plural entries (Fig. 5B), as in claim 19; changing said attribute includes indexing into said list on the basis of said index(different service policies in Fig. 5B), as in claim 20.

Gai did not specifically said first information being a new QOS, as in claim 10.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention that one of the arguments in program 224 to be transmitted as a flow to the devices is a QOS argument (col 8 lines 10-12), said attribute could also possibly be a new QOS with the motivation of obtaining a system wherein traffic flows can be managed according to corresponding policies.

9. Claims 21-30, 51-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gai. US patent No. 6,651,101 (Gai et al) discloses a method for identifying data traffic flows applying quality for service to the flows, wherein a data server (data server 222 in Fig. 2) configured to transmit data packets to a network, at least one network device configured to receive and transmit said packets , said data server configured to transmit a first information to said device (start up message 410 , col 7 lines 65-67, col 8 lines 1-9), said information representing a setting of said device and comprising at least one QOS parameter, said device having a memory, said data server configured to transmit second information to said device, said device configured to change its setting in accordance with said first information in response to receiving said second information (component 226 may rewrite attributes, col 17 lines 66-67,col 18 lines1-21,

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col 21 lines 36-44, col 22 lines 6-10), as in claim 21; said second information is incorporated into a data packet for a client (col 16 lines 28-30), as in claim 22; said device configured to change QOS prior to forwarding said packet, as in claim 23; said device configured to change QOS after forwarding said packet, as in claim 24; said second information incorporated in said packet and not destined for a client, as in claim 25; said first information is incorporated in said a packet destined for a client (assuming packets correspond to flow from program 24 to end station 212 in Fig. 2, col 16 lines 28-30) , as claim 26; said first information is incorporated in said packet not destined for a client (col 16 lines 28-30), as in claim 27; said memory configured to contain a list of QOS setting, as in claim 28.

In a data server configured for delivering data to a client over a network having one or more devices , comprising communicating first information (start up message 410 , col 7 lines 65-67, col 8 lines 1-9) to at least one target device(i.e. device 212 in Fig. 2), said first information representing an attribute comprising one or more parameters, producing a first data packet to said device, wherein said device respond by setting its attribute in accordance with said information (component 226 may rewrite attributes, col 17 lines 66-67,col 18 lines1-21, col 21 lines 36-44, col 22 lines 6-10), as in claim 51; said information is a list of plural entries having one or more QOS parameters, as in claim 52; said list containing plural entries, each entry containing a QOS parameter(different service policies in Fig. 5B), as in claim 53; said first data packet includes data destined for a client (col 16 lines 28-30), as in claim 54.

Gai did not specifically said setting being a QOS setting, as in claims 21 and 51.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention that one of the arguments in program 224 to be transmitted as a flow to the

devices is a QOS argument (col 8 lines 10-12), said attribute could also possibly be a new QOS with the motivation of obtaining a system wherein traffic flows can be managed according to corresponding policies.

10. Claims 31, 34-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gai. US patent No. 6,651,101 (Gai et al) discloses a method for identifying data traffic flows applying quality for service to the flows, wherein in a network device (Computer device 212 in Fig. 2), a method of setting QOS comprising acquiring at least one QOS parameter from an external source (source being server 222 in Fig. 2), receiving data packets of a first type (start up message 410 , col 7 lines 65-67, col 8 lines 1-9) which are to be transmitted from said device and a second type (flow declaration component may return the set up message 414) which are to be retained within said device, for each received data packet inspecting it for information of a first kind and in response to said information setting said attribute (component 226 may rewrite attributes, col 17 lines 66-67,col 18 lines1-21, col 21 lines 36-44, col 22 lines 6-10), as in claim 31; said information of said first kind is contained in a packet of a second kind (col 16 lines 28-30), as in claim 34; extracting said QOS parameter from a received packet, as in claim 35; QOS parameter is contained in a data packet of a first kind, as in claim 36; QOS parameter is contained in a data packet of a second kind, as in claim 37; a list of plural entries, each containing a QOS parameter (Fig. 5B) , as in claim 38; said list containing plural entries, each entry containing a QOS parameter (different service policies in Fig. 5B), as in claim 39.

Allowable Subject Matter

11. Claims 41, 43-50 are allowed.

Claims 5-7, 13-14, 32-33, 40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim. Please also notice objection to claims under 37 CFR 1.75

12. Claim 42 would be allowable if rewritten to overcome objection to claims under 37 CFR 1.75

Conclusion

13. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314

(for formal communications intended for entry, for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Ricardo Pizarro** whose telephone number is (703) 305-1121. The examiner can normally be reached on Monday-Friday from 9:00 AM to 5:30 PM. The fax number for this Group is (703) 872-9314.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Douglas Olms**, can be reached on (703) 305-4703.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700

January 22, 2004.

Ricardo M. Pizarro


KENNETH VANDERPUYE
PRIMARY EXAMINER